

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No.: 8:23-cv-00162-JLS-AGR

Date: February 03, 2023

Title: Kent Lehman v. DCO Pacific City LLC

Present: **HONORABLE JOSEPHINE L. STATON, UNITED STATES DISTRICT JUDGE**

V. R. Vallery

Deputy Clerk

N/A

Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF:

Not Present

ATTORNEYS PRESENT FOR DEFENDANT:

Not Present

**PROCEEDINGS: (IN CHAMBERS) ORDER DISMISSING CASE FOR LACK
OF SUBJECT MATTER JURISDICTION**

The Court may raise the issue of subject matter jurisdiction at any time, *sua sponte*. See *U.S. Catholic Conference v. Abortion Rights Mobilization*, 487 U.S. 72, 79 (1988). “If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.” Fed. R. Civ. P. 12(h)(3). As the party invoking federal jurisdiction, the plaintiff has the burden of establishing subject matter jurisdiction. See *Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 377 (1994). At the pleading stage, the burden must be met by pleading “a short and plain statement of the grounds for the court’s jurisdiction” Fed. R. Civ. P. 8(1)(1).

Subject matter jurisdiction exists when an action arises under federal law or when there is complete diversity between the parties and the matter in controversy exceeds \$75,000. See 28 U.S.C. §§ 1331–32. Diversity jurisdiction arises where the controversy is between “citizens of a State and citizens or subjects of a foreign state.” 28 U.S.C. § 1332(a)(2).

Here, Plaintiff’s form Complaint states no basis for federal subject matter jurisdiction—there are only blank lines under the JURISDICTION heading. (See Compl. at 1, Doc. 1.) Furthermore, Plaintiff brings a claim for intentional infliction of emotional distress, which is a cause of action arising under state—not federal—law. (See *id.* at 3.) Therefore, the Court lacks subject matter jurisdiction over Plaintiff’s claim.

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Accordingly, this matter is DISMISSED without prejudice to refile in a proper court.

Initials of Deputy Clerk: vrv